



I want to challenge the outcome of an election and How do I apply for relief

I want to challenge the outcome of a Parliamentary/Local Government election or the election of a member of the European Parliament

The outcome of an election can be challenged on the grounds of some irregularity by the issue of an election petition.

Who can make a challenge?

You can challenge a Parliamentary or European Parliamentary Election if you are:

- someone who has the right to vote; or
- an unsuccessful candidate; or
- a person alleging to have been a candidate.

You can challenge a Local Government election if you are:

- four or more persons who had the right to vote; or
- a person alleging to have been a candidate.

Who is the respondent?

The successful candidate will always be one of the respondents, even if it is the conduct of the Returning Officer or the staff of the returning Officer that is complained of.

What does an election petition contain?

An election petition must set out the following facts:

- the capacity in which the petitioner is acting;
- the date and result and, in the case of a Parliamentary Election, the date the return was made to the Clerk of the Crown in Chancery (the Returning Officer should be able to tell you this);
- the date from which the time for lodging the petition is calculated, if not within 21 days;
- the grounds on which relief is sought; and
- the relief claimed.

The petition must be signed by each petitioner; it cannot be signed by a solicitor on their behalf.

An example of an election petition can be found at the back of the Election Petition Rules 1960 and the European Election Petition Rule 1979 and Atkins Court Forms, volume 18(1).

Is there a time limit for issuing an election petition?

Yes. Generally it must be issued within 21 days after a:

- Parliamentary Election – the return of the writ with the name of the successful candidate was made to the Clerk of the Crown in Chancery;
- European Parliamentary Election – the day the result was declared under the rules governing that declaration;
- Local Government Election – the day on which the election was held.

Further time may be allowed if the petition questions the election on the grounds of corrupt or illegal practices involving the payment of money or other reward or is in connection with election expenses.

You may issue your petition at any time up to midnight on the last day. If the Election Petitions Office is closed, you may take your petition to the Royal Courts of Justice and post it in the letterbox opposite room E113. You must swear an affidavit the next working day confirming the day and time at which you deposited the petition.

How much will it cost?

The fee payable on issue of an election petition is £485. You can pay your fee by cheque or postal order. Cheques and postal orders need to be made payable to HMCTS.

Will there be anything else to pay?

Yes. At the same time as you issue your election petition, you must apply to the Prescribed Officer (the Senior Master of the Queen's Bench Division) or, in his absence, to a Queen's Bench Master to fix the amount of the security for costs which the law says you must give. You should use Form N244 Application notice; there is a fee payable on issue of the application. You must pay security for costs within three working days of issuing an election petition.

What is security for costs?

This is a sum of money, which you must pay into the Court Funds Office, to cover any costs which you may be ordered to pay. The maximum security which you can be ordered to give is:

Parliamentary Election or European Parliamentary Election	£5,000
Local Government Election	£2,500
Parish Council Election	£1,500

Security for costs may be given in cash or by up to four sureties, or a combination of both.

The respondent has the right to object to any surety on the grounds that they are not worth the amount they have agreed to or, if the Prescribed Officer ordered a smaller amount than the maximum security.

If you fail to give security for costs within three working days of issue of election petition, you cannot take any further action.

If the petition fails, or you do not pursue it, you may be ordered to pay the costs of the respondent(s) and these will probably exceed the amount fixed as security for costs.

What documents do I serve?

You must serve on each of the respondents a copy of the following documents:

- notice of presentation;
- the amount and type of security;
- election petition; and
- any affidavit accompanying recognisance.

You must also serve a copy of the notice of presentation and attachments on the Director of Public Prosecutions at Rose Court, 2 Southwark Bridge, London SE1 9HS, Phone: 020 3357 0000.

You must serve the above documents within five working days of giving security for costs. If you fail to do so, you cannot take any further action on the petition.

A suggested form of notice of presentation can be found in Atkin's Court Forms, volume 18 (1).

How do I serve the election petition?

You can serve your documents in one of the following ways:

- in person; or
- by 1st class post (the date of service is deemed to be the second day after posting); or
- on a solicitor authorised to accept service.

How can I get further advice?

The staff in the Election Petitions Office can advise you on the procedure for issuing an election petition but they cannot give you legal advice or any indication of whether you are likely to be successful. The Returning Officer is also unable to give you legal advice.

How do I apply for relief

I made a mistake as a result of which I am guilty of an illegal practice (e.g. in connection with my election literature or expenses). What can I do?

If, by mistake, you have acted in a way that breaks the election law, it may be possible for you to apply to the court for relief from the consequences of your action.

How do I issue an application for relief?

You can issue your application for relief to the High Court or the election court. If you are issuing an application for failure to deliver return of expenses, late submission or payment of expenses you can also issue at the county court.

There is a fee (currently £485) payable on issue.

You must serve a copy of the application, together with a witness statement in support, on each of the opposing candidates and on the Returning Officer and publish the application in a local newspaper. You must also notify the Director of Public Prosecutions who may attend the hearing.

Contact

The Election Petitions Office
Room E113
Royal Courts of Justice
Strand
London WC2A 2LL

Email: Election_Petitions@hmcts.gsi.gov.uk

Phone: 020 7947 6877

Fax: 0870 324 0024

The office is open to personal callers between 10am and 4.30pm.